

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

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DEPUTY DIRECTOR

STAFF SUBMITTAL
for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

April 16, 2009
Honolulu, Oahu

Grace Pacific Corporation
CANCELLATION OF WATER USE PERMIT (WUP) NOS. 068 and 080
Wells C-1, C-2, C-3, and B-1 (Well Nos. 1906-03 to -06)
TMK (1) 9-1-014:002, Malakole Aquifer System Area, Oahu

APPLICANT:

Grace Pacific Corporation
P.O. Box 78
Honolulu, HI 96810

LANDOWNER:

Same

SUMMARY OF REQUEST:

Grace Pacific Corporation (Grace) has requested that two of its water use permits (WUP Nos. 068 and 080) be cancelled because the wells that served as the source of water for these permits have been permanently sealed and the applicant no longer has a need for the water use allowed under these permits.

BACKGROUND:

In June 2005, Grace permanently sealed four salt water wells (Well Nos. 1906-03 to -06) under well abandonment permits issued by the Commission on Water Resource Management (Commission). These wells supplied water for Grace's sand mining and processing operations. This water use was initially approved by the Board of Land and Natural Resources (BLNR) in January 1987. On January 27, 1987, the BLNR issued WUP No. 068 for use of up to 2.000 million gallons per day (mgd) (from Well Nos. 1906-03 and -04) on a 12-month moving average basis, and WUP No. 080 was approved for use of up to 0.500 mgd (from Well Nos. 1906-05 and -06).

On December 24, 2008, staff received an e-mail message from Grace stating that it no longer has a need for the water use allowed under WUP Nos. 068 and 080, and that the permits should be cancelled (Exhibit 1). Cancellation of these permits would decrease the total allocation for the Malakole aquifer system area, a brackish and salt water source within the Ewa caprock aquifer, from 47.036 million gallons per day (mgd) to 44.536 mgd. On January 5, 2009, staff sent a letter to Grace acknowledging receipt of the request to cancel these permits and provided notice of the intent to commence the cancellation process for approval by the Commission (Exhibit 2), and requested that Grace respond in writing if it objected to this action. No further response was received from Grace, in response to this letter.

ITEM C1

ANALYSIS/ISSUES:

The State Water Code, in HRS §174C-58, and Hawaii Administrative Rule §13-171-24 both allow for voluntary cancellation of a water use permit, as follows:

Revocation of permits. After a hearing, the commission may suspend or revoke a permit for:

- (1) Any materially false statement in the application for the water permit, a modification of the permit term, or any materially false statement in any report or statement of fact required of the user pursuant to this part.*
- (2) Any willful violation of any condition of the permit.*
- (3) Any violation of any provision of this chapter.*
- (4) Partial or total nonuse, for reasons other than conservation, of the water allowed by the permit for a period of four consecutive years or more. The commission may permanently revoke the permit as to the amount of water not in use unless the user can prove that the user's nonuse was due to extreme hardship caused by factors beyond the user's control. The commission and permittee may enter into a written agreement that, for reasons satisfactory to the commission, any period of nonuse may not apply towards the four-year revocation period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section 174C-62 shall not apply towards the four-year period of forfeiture.*

The commission may cancel a permit, permanently and in whole, with the written consent of the permittee. [L 1987, c45, pt of §2]

Staff does not foresee a problem with cancelling WUP Nos. 068 and 080, since the permit holder has sealed the wells that provided water under the permits and has no plans to construct replacement wells.

RECOMMENDATION:

That the Commission:

1. Permanently cancel Water Use Permit Nos. 068 and 080.

Respectfully submitted,



KEN C. KAWAHARA, P.E.
Deputy Director

Exhibits: 1 (Request from Grace Pacific Corporation to Cancel Permits)
 2 (Letter from CWRM to Grace Acknowledging Cancellation Request)

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN
Chairperson

DLNR.CW.DLNR CWRM/DLNR/StateHiUS

12/24/2008 11:18 AM

To Denise E Mills/DLNR/StateHiUS@StateHiUS

cc

bcc

Subject Fw: attn Denise Mills

Denise,
Received via the CWRM account.

----- Forwarded by DLNR.CW.DLNR CWRM/DLNR/StateHiUS on 12/24/2008 11:17 AM -----



RCreps@gracepacificcorp.com

12/24/2008 09:32 AM

To dlnc.cwrn@hawaii.gov

cc

Subject attn Denise Mills

Denise - as discussed on December 22nd, Grace Pacific Corporation has closed State Well Numbers 1906-03 to 06 and no longer needs WUP 068 and WUP 080. I believe WUP 068 relates to wells 1906-03 and 04, and WUP 080 relates to wells 1906-05 and 06. Please advise if any further action is required on our part to close out these permits.

thank you

Robert Creps

Sr VP Administration

Grace Pacific Corporation

EXHIBIT 1

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KEN C. KAWAHARA, P.E.
DEPUTY DIRECTOR

January 5, 2009

Mr. Robert M. Creps
Grace Pacific Corporation
P.O. Box 78
Honolulu, HI 96810

WUP 068 and 080 rev.ltr1

Dear Mr. Creps:

Notice of Intent to Revoke Two Water Use Permits
Water Use Permit No. 68 for Well Nos. 1906-03 and -04
Water Use Permit No. 80 for Well Nos. 1906-05 and -06

On December 24, 2008, we received by electronic mail your notice that Grace Pacific Corporation no longer requires the water you are allowed to use under Water Use Permit Nos. 68 and 80, issued for the subject wells, and that the permits should be terminated. The wells that served as the source for these permits were abandoned and permanently sealed in June 2005, under well abandonment permits issued by the Commission on Water Resource Management (Commission). We have checked our records and confirm that the well abandonment work was done in accordance with our requirements and, although we accepted the work as complete and acceptable on August 11, 2005, we didn't take action to terminate the subject water use permits.

This letter serves as formal notice to you that we intend to revoke WUP Nos. 68 and 80. We intend to begin the revocation process for approval by the Commission, no sooner than thirty (30) days from the date of this notice, unless we receive any objections from Grace Pacific Corporation. If you have any objections, please submit them in writing within 30 days of the date of this notice and state the reasons for your objection(s).

We appreciate your continued willingness to work with us on matters relating to water use in the West Oahu area. The notification you provided is an important step that helps prevent unneeded water quantities from being tied up in obsolete water use permits, and, once the revocation process is complete, can make the water available for allocation to other users within a ground water management area.

If you have any questions, please contact Denise Mills of the Commission staff at 587-0251.

Sincerely,

A handwritten signature in black ink that reads "Ken C. Kawahara".

KEN C. KAWAHARA, P.E.
Deputy Director

DEM:ss

EXHIBIT 2